



01-2-04

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#4

Atty. Dkt. No. 061300-0242

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: O'Connell, et al

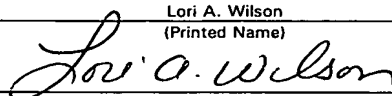
Title: ENVIRONMENTAL SHIELD
FOR A TRUCK MOUNTED
CONCRETE MIXER

Appl. No.: 09/954,677

Filing Date: 09/15/2001

Examiner:

Art Unit:

CERTIFICATE OF EXPRESS MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.	
EL 979073001 US (Express Mail Label Number)	1/9/04 (Date of Deposit)
Lori A. Wilson (Printed Name)	
 (Signature)	

PETITION FOR REVIVAL OF APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The above-identified application became abandoned for failure to file a timely and proper response to the Notice of Missing Parts, which set a three-month period for response.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Required reply and/or fee;
 - (2) Petition fee (37 C.F.R. § 1.17(m));
 - (3) Statement that the abandonment was unintentional; and
 - (4) Any required terminal disclaimer (37 C.F.R. § 1.137(c)).
- (1) Required reply and/or fee.

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The proposed reply and required fee for the above-noted Notice of Missing Parts in the form of a Declaration and Power of Attorney and Filing Fee is enclosed herewith.

01/13/2004 EFLURES 00000015 09954677

01 FC:1453

1330.00 OP

Adjustment date: 01/14/2004 EFLURES
01/13/2004 EFLURES 00000016 09954677
01 FC:1253 -840.00 OP

01/13/2004 EFLURES 00000016 09954677

01 FC:1253

840.00 OP

01/14/2004 EFLURES 00000045 09954677
01 FC:1001 770.00 OP

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001.1525578.1

Repln. Ref: 01/14/2004 EFLURES 0010090200
FDH: 061447 Name/Number: 09954677
FC: 9204 \$70.00 CR

(2) Petition fee (37 C.F.R. § 1.17(m))

A check in the amount of \$1,330.00 is enclosed for the amount stated in 37 C.F.R. § 1.17(m) to cover the fee for this petition.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447.

(3) Statement that the abandonment was unintentional.

Applicant hereby states that the entire delay in filing the required reply, from the due date for the reply until the filing of this petition, was unintentional. See attached Declaration of the undersigned.

(4) Any required terminal disclaimer (37 C.F.R. § 1.137(c)).

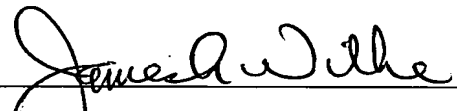
No terminal disclaimer is required in this application under 37 C.F.R. § 1.137(c) since this application was not filed before June 8, 1995.

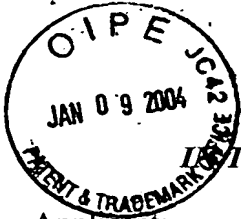
Respectfully submitted,

Date 01-09-04

FOLEY & LARDNER
777 East Wisconsin Avenue, Suite 3800
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5776
Facsimile: (414) 297-4900

By


James A. Wilke
Attorney for Applicant
Registration No. 34,279



Atty. Dkt. No. 061300-0242

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: O'Connell, et al

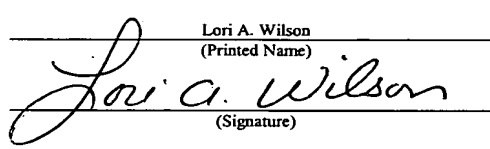
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Appl. No.: 09/954,677

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Examiner:

Art Unit:

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EL 979073001 US (Express Mail Label Number)	1/9/04 (Date of Deposit)
Lori A. Wilson (Printed Name)	
 (Signature)	

DECLARATION OF JAMES A. WILKE UNDER 37 C.F.R 1.137

I, James A. Wilke declare:

1. I am an adult resident of the State of Wisconsin.
2. I am, and at all relevant times, an attorney for Oshkosh Truck Corporation, Oshkosh Wisconsin (OTC).
3. I filed a patent application now identified with Serial No. 09/954,677, a copy of a postcard bearing a U.S. Patent Office bar code sticker with the above serial number is attached hereto and incorporated herein by reference.
4. Prior to receipt of the Notice of Abandonment mailed November 10, 2003 and received in our Milwaukee Office on November 13, 2003, no communication from the U.S. Patent Office was received by the undersigned.
5. Upon information and belief, a Notice to File Missing Parts for Serial Number 09/954,677, was not received by our docketing department which receives and docketes all correspondence from the U.S. Patent Office. A document dated November 13, 2003, entitled FL_USPTO Form, bearing a Serial Number of 09/654,677 (a copy of which is attached hereto) shows a misstatement of the serial number for our docket number.
6. The undersigned believes that the misstatement of numbers in the Serial Number caused the failure to reply to the Notice of Missing Parts. The undersigned believes

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that the U.S. Patent Office mailed the Notice of Missing Parts to a correspondence address for serial number 09/654,677.

7. The undersigned conducted a telephone conversation with Mr. Preston Wallace of the U.S. Patent Office, on November 13, 2003 to explain and discuss this matter. Mr. Wallace suggested that a Petition to Revive be filed.

8. This declaration accompanies a copy of the Notice of Abandonment, the requisite revival fee, (\$1,330.00) a copy of the declaration and power of attorney of inventor Michael B. Cahoun, and the filing fee for the application (\$840.00).

9. I have been informed by a representative of Oshkosh Truck Corporation that named inventor, Jack Harowitz, after a diligent attempt to contact him, is not available at this time and that named inventor William J. O'Connell is refusing to sign any documents at this time. Neither of such inventors are employees of Oshkosh Truck Corporation.

10. I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. I make the statements set forth above of my own personal knowledge, and, if called upon to do so, could testify competently thereto. I acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of the patent application and any corresponding patent.

Respectfully submitted,

Date 01-09-04

FOLEY & LARDNER
777 East Wisconsin Avenue, Suite 3800
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5776
Facsimile: (414) 297-4900

By James A. Wilke

James A. Wilke
Attorney for Applicant
Registration No. 34,279



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/954,677	09/15/2001	William J. O'Connell	061300-0242

CONFIRMATION NO. 8436

**ABANDONMENT/TERMINATION
 LETTER**



OC000000011232291

James A. Wilke
 FOLEY & LARDNER
 Firstar Center
 777 East Wisconsin Avenue
 Milwaukee, WI 53202-5367

Date Mailed: 11/10/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 10/16/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

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*A copy of this notice **MUST** be returned with the reply.*

Request Withdrawal
 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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FL_USPTO Form

11/13/2003

Received/Forwarded:	Pat/TM	Docket No:	App/Reg No:	Action:
10/19/2003 1	Pat	061300-0242	09/654,677	Notice to File Missing Parts of Nonprovisional Application

09/954677

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JAN 16 2004

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Inventor/Mark:	Atty:	Office
O'Connell	JAWI	Milwaukee